

MOTION TO SUBMIT ATTACHED DOCUMENTED

08 JUN 17 PM 1:00

In the United States District Court
For the Northern District of California

Pagtakhan ET AL

v.

Witt ET AL

Motion To Submit Attach-
ed Document As Evidence
Case No. CV 08 2188 SI (PR)

To: The Honorable Court In The Above Entitl-
ed Cause Of Action

Please be advised that on the day of June
2008, at the hour of 8:00am in the court-
room of the Honorable Judge Susan Illston,
or as soon thereafter as this motion can be
heard, plaintiff will move the court for an or-
der to permit submission of attached doc-
ument described as a "habeas corpus pet-
ition" as documentary evidence.

The said document has been filed in the Ca-
lifornia Supreme Court on June 5, 2008,
case no. S164140, consists of relevant
facts and case law totaling 58 pages.

June 12th, 2008

Marlon E. Pagtakhan

MC-275

Name Marlon E. Pagtakhan ①
 Address Napa State Hospital Q9
2100 Napa Valley Hwy.
Napa, Ca 94558-6293
 CDC or ID Number 2074227

California Supreme Court
350 McAllister Street
San Francisco, Ca. 94102 (Court)

Marlon Estacio Pagtakhan
 Petitioner

vs.

Ed Foulk ET AL
 Respondent

PETITION FOR WRIT OF HABEAS CORPUS
 (or applicable writs of mandamus)

No

(To be supplied by the Clerk of the Court)

58 paged petition + attachments
(see page 3 for Notice/Table of Contents)

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- ✓ If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents. (supporting documents will be sent separately via certified mail to the size, and my lack of resources)
- ✓ Notify the Clerk of the Court in writing if you change your address after filing your petition due
- ✓ In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court [as amended effective January 1, 2007]. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

Page 1 of 6

Note: this petition will be
 renumbered as ② at top
 and bottom centered, or
 right of wording.

①

②

MC-275

This petition concerns:

- ☐ A conviction ☐ Parole
☐ A sentence ☐ Credits
☐ Jail or prison conditions ☐ Prison discipline

☒ Other (specify): excessive civil rights violations

- 1 Your name: Marlon Estacio Pagtakhan
 2 Where are you incarcerated? Napa State Hospital
 3 Why are you in custody? ☐ Criminal Conviction ☒ Civil Commitment (pre-preliminary detainee held on no legitimate grounds nor hearings)

Answer subdivisions a. through i. to the best of your ability

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

I was falsely arrested (framed up) and have been fraudulently committed pending accusations below.

- b. Penal or other code sections: 646.9(a), 646.9(c)(2), and 422
 c. Name and location of sentencing or committing court: Superior Court, County of San Mateo, 400 County Center, Redwood City, Ca. 94063
 d. Case number: NF369118A, MH463328A, HC1973, A121085 (appeals court)
 e. Date convicted or committed: October 24, 2007 (committed)
 f. Date sentenced: transferred to Napa State Hospital 2/7/08
 g. Length of sentence: 6 months minimum
 h. When do you expect to be released? UNKNOWN (PCR370 is being abused to compel a defendant into taking a plea bargain)
 i. Were you represented by counsel in the trial court? ☐ Yes. ☒ No. If yes, state the attorney's name and address

I was fraudulently misrepresented by "incompetent" Eric M. Have, 461 Laurel St., San Carlos, Ca. 94070.

- 4 What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: n/a

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury ☐ Judge without a jury ☐ Submitted on transcript ☒ Awaiting trial

②

③

(attachment insert) Notice/ Table of Contents

• Grounds 0 through 19 (in petition)
(case rulings added since last petition)

• "Prejudices Suffered" (in petition)
(to show prima facie case for relief)

• "Prayer For Relief" (in petition)
(what I request the court to do)

• Court of Appeals Denial & Letter (attached)
(1 line denial and return letter of inquiry) 2 pages

• Superior Court Denial (attached)
(chronicler's previous history) 5 pages

• U.S. District Court Judgement (attached)
(chronicler's complete history) 4 pages

• Civil Rights Complaint, Federal (attached)
(lawsuit filed under Title 42 U.S.C. § 1983 summarizing misconduct) 30 pages

• 59 paged document #ed 0-56 (attached)
(notes and figures regarding my case and diary of incarceration and proceedings) 59 pages

• 3 criminal complaints filed (attached)
(complaints I filed with the Clerk and the District Attorney) 16 pages

• Claim Against The County (attached)
(included documenting prejudice and civil rights violations) 9 pages

• Letter Requesting Relief (attached)
(sent to Governor, Attorney General, Federal District Judge, Board of Supervisors, State Bar) 6 pages

• Letter to D.A. & Sheriff (attached)
(regarding crimes in court committed against me and prejudices suffered) 11 pages

• Napa State Hospital complaints (attached)
(display & transcribed pretrial prejudices suffered with help by the County) 6 pages

(4)

(continued) Notice / Table of Contents

• All Pro Moving business plan (attached)
(a liberty I'm prejudiced of pursuing) 1 page

• Daily Journal & SF Chronicle articles
(photos, press releases, press conference articles exhibiting prejudice) 11 pages (attached)

• Pending Lawsuit "Causes of Action" (attached)
(some causes of action in a case I'm preparing against APW) 10 pages

Listing of real parties in interest:

• Ed Foulk (jailer "executive director of NSH")
(writ should issue to)

• Chuck Witt (Burlingame Police Detective)
(subpoena to court)

• Steve Wagstaffe (Chief Deputy D.A.)
(subpoena to court)

• Eric Musser Hove (court appointed counsel)
(subpoena to court)

• Jatinder K. Singh (court appointed doctor)
(subpoena to court)

• Thomas E. Samuels (court appointed doctor)
(subpoena to court)

• Jane Doe (deputy D.A. on 8/23/07)
(question, early release, ~~inmate~~)

• Jack Grandsaert (retired)
(~~inmate~~, ~~inmate~~, ~~inmate~~)

• Roland Alexander (APW mob leader)
(~~inmate~~, ~~inmate~~, ~~inmate~~)

7. Ground 2 or Ground ① (if applicable):

(and Appeals Court)

The Superior Court ~~erred~~ in denial in its refusal to review petition grounds 1 through 9, grounds 11, 12 and 16 violating my rights to Due Process in the prosecution of the writ.

a. Supporting facts: (see civil rights complaint page 15 line 13 - page 16 line 16)

I filed for a writ of habeas corpus **challenging the legality of my arrest and detention** (imprisonment) addressing the following grounds: (1) **false arrest**, (2) **entrapment**, (3) **compelled interrogation**, (4) **unlawful seizure**, (5) **excessive bail**, (6) **false police report**, (7) **imposed slavery**, (8) **equal protection violation by police**, (9) **speedy trial right violation**, (10) **fraudulent competency proceedings**, (11) **defamation**, (12) **denial of right to jury trial**, (13) **fraudulent diagnosis by court appointed doctors**, (14) **illegal commitment**, (15) **refusal to disclose documents to myself**, (16) **malicious prosecution**, with the Superior Court. Grounds 10, and 13-15 were **irrationally and vaguely** addressed. Grounds 1-9, 11-12, and 16 were **unreviewed without** stated authorities. Habeas Corpus actions are used to address critical issues **at any time**. My grounds are critical to my confinement as I **shouldn't have been arrested to begin with**.

b. Supporting cases, rules, or other authority:

The appeals Court gave no explanation in its denial.

PC § 1473.-1508., Due Process Clause of both State and Federal Statutes, **def.** a writ employed to bring a person before a court... to ensure... party's... detention is not illegal... to being used to test the ^{legality} of an arrest. In this petition will you find many procedural defects in which to choose from that you may grant relief. **I had a life.**

1 (Ground 2 cont.) Francis S. v. Stone 221 F.3d 100 (statin-
 2 g that "some increment of incorrectness beyond error is required"
 3 but "that increment need not be great"), Davis v. Strack 270 F.3d
 4 111 (finding that the Appellate Division's decision was "egregiously
 5 at odds with the standards of due process propounded by the S-
 6 upreme Court" and fit within the "unreasonable application" claus-
 7 e), Jermyn v. Horn 266 F.3d 257 (finding that defendant's cou-
 8 nsel had been ineffective for failing to conduct adequate inv-
 9 estigation, and that state court's decision to the contrary w-
 10 as objectively unreasonable), Edwards v. Balisok 520 U.S. 641
 11 (when trial judge is not impartial), Reynolds v. Norris 86 F.3d 796
 12 (failure to hold additional competency hearing violated due process),
 13 Bass v. Pierce 263 F.3d 734 (holding that the appellate court's d-
 14 ecision was unreasonable), Torres v. Pruett 223 F.3d 1103 (findin-
 15 g that "the state courts' factual determinations were unreasonab-
 16 le" and that the defendant "rebutted the presumption of correctness
 17 of state court's findings by clear and convincing evidence"), Taylor
 18 v. Maddox 366 F.3d 992 (finding a state court's determination of
 19 facts is unreasonable if no finding was made and the court "should
 20 have made a finding of fact but neglected to do so"), Nunes v. Mue-
 21 ller 350 F.3d 1045 (state court's factual findings were unreasona-
 22 ble when court made the findings without holding an evidentiary
 23 hearing), Mash v. McGinnis 233 F.3d 132 (refusing to give stat-
 24 e court's "factual finding" a presumption of correctness because
 25 there were no factual findings but only conclusions), Caliendo v. W-
 26 arden of Cal. Men's Colony 365 F.3d 691 (deciding that there is n-
 27 o deference given to state court's fact findings when those findin-
 28 gs were "arrived at through the use of erroneous legal standards")

⑦

(Ground ② cont.) Torres v. Puerto 223 F.3d 1103 (concluding state court's factual determination was unreasonable under §2254 (d)(2) if it was "conclusionary and not fairly supported by evidence on the record"); Dugger v. Adams 489 U.S. 401 (stating that a court may grant a writ even in the absence of showing of cause for procedural default, but only in an "extraordinary" case); Murray v. Carrier 477 U.S. 478 (holding that "where a constitutional violation has probably resulted in the conviction of one who is actually innocent, procedural default will not bar review of the claims"); Coleman v. Thompson 501 U.S. 722 (reaffirming that the "fundamental miscarriage of justice" exception applies to procedurally defaulted claims). I was not granted an order to show cause by the court of appeals. I was not granted one by the Superior Court, and issued an unreasonable denial order stating "I should have demanded to cross examine doctors." I repeatedly objected in court and demanded a public hearing. This was the very purpose of my habeas petition. I never had a competency "hearing" only conclusion. My habeas corpus denials were conclusionary despite legitimate disputes. I have not even had a preliminary hearing. How can law allow a criminal mob conspire with a dishonest cop to frame up a man, permit the D.A. to press the case when it is evident, deny the accused a right to have prosecutors show cause to his detainment, and finally commit that man without a hearing despite his objections and without shown cause?

- Pagtakhan v. Foulk must rule an unconstitutional commitment when held w/o a preliminary hearing and requests a competency hearing.

PETITION FOR WRIT OF HABEAS CORPUS ⑦

6. GROUNDS FOR RELIEF 1st of 16 total grounds

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

I was illegally arrested exercising my first state amendment right to be free and independent, defending life and liberty, protecting property, and pursuing and obtaining safety, happiness and privacy, by the Burlingame Police. (and 14th Amendment)

a. Supporting facts: (see civil rights complaint page 4 claim (1))

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

I've been harassed and blackmailed by slander by the alleged victims (affiliates of APW), for over one year. I paid Roland Alexander \$2,000 to be trained as a pro-wrestler. Instead I become subject to slavery and am disrespected and made fun of. I drop out and request a partial refund. Roland then spreads lies. Harassment between APW affiliates and myself become mutual via email and cell phone. I show up on 8/11/07 to speak with my former trainer. Later that night I am invited to the APW office for a release from my APW contract and a return of my money by Roland and Shannon Ramirez. I am trapped in a malicious arrest by two officers of the Burlingame Police, violating guidelines learned under PC13519.05. (SEE NEXT GROUND)

b. Supporting cases, rules, or other authority (optional): AND LETTER FOR RELIEF TO GOV. ET AL ATTACHED

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)
14th Amendment's Due Process and Equal Protection Clauses
CA Art. 1 § 6, 13th Amendment (1) CA Art. 1 § 1, please see attachment (59 pages numbered 0-56) pages # 0, 5, 12-14, 20-25, 29(a)(b), 30-34, 39, 41-42 for declarations of slavery and harassment. See page #54 for timeline(s). PC118.1.

1 (Ground I cont.) In December '06 Poland Alexander info-
 2 rmed me that several sought temporary restraining orders
 3 against me, at the same time he and others tried to persua-
 4 de me to return to APLW, not to mention a "Camp Orientat-
 5 ion" letter in January '07. I was threatened and false-
 6 ly accused of "stalking" female wrestler MsChif in July '06,
 7 who apparently led me on. This factors into the conspiracy as
 8 it is possible detective Chuck Witt was soliciting APLW
 9 as early as this date. During my participation in my last A-
 10 PLW show as security, female wrestler Melissa asked me
 11 to retrieve a jacket for her. As I up the stairs to the fro-
 12 nt entrance, MsChif downs the stairs following two m-
 13 en who were earlier "whooping" and cheering for her loudly,
 14 and one of them screaming "Yeah!" Opposite him as se-
 15 curity, I eyed him closely, who identically resembled Chuck
 16 Witt, whom MsChif acknowledged before her wrestling match.
 17 This is documented in my seized laptop. Regardless, PC13519.
 18 05. clearly states guidelines must be followed in stalking
 19 accusations. One "civil remedy" is the well known "res-
 20 training order," as Poland mentioned. APLW affiliates
 21 including the two above sought restraining orders, yet ch-
 22 ose to add and keep me as a friend on Myspace.com. MsChi-
 23 f even signed my guestbook, and Melissa directed me to a v-
 24 ideo of her wearing sexy Christmas lingerie in a message
 25 asking what do I think she should wear for Valentine's Da-
 26 y. On the forms CH-135, CH-150, and CH-151, guidelines of
 27 restraining orders are stated as approved by the Judicial Co-
 28 unsel of California. CH-135 states as to "Why do I have

10
1 (Ground I cont.) to get the orders served? The police cannot arre-
2 st anyone for violating an order unless that person knows ab-
3 out the order. "CH-150 states on "How will the person to be re-
4 strained know about the order? Someone.. must "serve" (giv-
5 e) the person to be restrained a copy of the order. "CH-151 st-
6 ates "What if I don't obey the order? The police can arrest you."
7 I was never served the restraining order,
8 but I was continually baited, taunted, and
9 harassed in a state of coercion. (CRIMINAL COERCION)

10 In regards to Chuck Witt's malicious arrest violating PC84B,
11 after he conspired with Roland and Shannon to invite me ba-
12 ck to the gym, it was his idea he admitted, I was pulling
13 up to a parking spot across from the gym during the show
14 that night, he runs towards my truck flashing a light in
15 my face pointing his gun at me yelling, "Marlon stop the
16 truck and come out with your hands up!" As I comply
17 at least two squad cars enter the lot speeding and trap me
18 in unnecessarily. Guns are drawn and a police attack dog
19 is viciously barking at me. I recall an infrared scope
20 in my vision. People across the street watching the
21 show are cheering in my arrest. This is excessive for
22 somebody who was invited for a release contract and
23 refund he was entitled to, for somebody who only sou-
24 ght a truce earlier that day, for someone who brought
25 two pairs of gloves to box a 6'4" 250 lb. trash talking b-
26 ully in the ring, whom Roland repeatedly threatened
27 me with, and also invited me numerous times to go
28 one on one with in the ring. This was not necessary.

7. Ground 2 or Ground (if applicable):

My 14th state amendment and 6th Amendment rights were violated in a conspiracy and entrapment by the Burlingame Police in which there was an unnecessary delay in arrest after a felony complaint was filed. Also the 5th Amendment and 14th Amendment.

a. Supporting facts: (see civil rights complaint page 4 claim (1))

The detective admitted to having investigated the situation for at least "6 months prior" to the arrest. He was prejudice and negligent to my civil rights when he solicited with affiliates of APW to procure myself to be charged and arrested. He permitted the alleged victims to continue their harassment to incite and induce me to retaliate. The detective then ignored the crimes committed against me. I had previously filed a harassment complaint with the BPD against APW in 1/07 but did not press charges. I could have been warned or notified when a complaint was filed against me. Instead, the detective and partner chose a malicious arrest even after having surveyed my residence. (see pages # 27(a) - 28, 35.) A restraining order ^{was} must have been issued, yet I was never served. I always felt Roland and company setting (framing) me up and even expressed this concern with the police when I filed a complaint. That has become reality in the negligence and fraud committed by an unprofessional officer.

b. Supporting cases, rules, or other authority:

(SEE ATTACHED LETTER FOR BELIEF TO GOVERNOR)

CA Art. 1§14, 6th Amendment, Due Process Clause, PC 182(a) (1)(2) (4), PC 153, PC 134 (re: fraudulent report), see attachment pages #26, 30-34, 36-39, 48, 54, and 56 for relating case law.
Rule 48(b) Federal Rules of Criminal Procedure for unreasonable and unnecessary delay. McNeely v. Blanas 336 F. 3d 922, 924, Dickey v. Florida 398 us 36, PC 18.1. PC 131.

(12)

(Ground 2 cont.) After the immediate and surprising arrest I go into a state of shock but I do manage to repeatedly ask Chuck Witt for what reason I'm being arrested. He finally answers "stalking, terrorist threats, and electronic harassment." I then go into a state of post traumatic stress as I was just warned by my sister on the way there to "go straight home and tell Roland to mail me a check instead." Roland and Shannon called me and repeatedly ~~and~~ texted me while I was a family get together I had been late to, after leaving the parking lot across the street from AFW that late afternoon (see 59 paged document's page #29(a) & #29(b)). I called my sister to let her know Roland and Shannon promised a refund, but wanted me to sign a contract not to sue them, while I was on my way. Not taking her advice, I promised to call her as soon as I got there, and put her on speakerphone so that she could listen to see if anything bad would happen. When I expressed this to Chuck Witt, that I had a feeling of a set up, he said "Good thing you didn't. We would have shot you thinking it was a gun." My entire family and even co-workers were aware of AFW harassing me, and knew what I was going through. So should have the Burlingame Police! I ask Chuck Witt "Who is in charge?" at least twice. First he puts the blame on his partner, then says "I'm in charge. What do you want?" "Do you have a warrant?" I want to see a warrant!" I ask. He replies "back at the station." I'm somewhat relieved they're parking my truck, though leaving it in hostile heathen territory and taking me back to Burlingame. In the car, I'm restless and want to express t-

(13)
1 (Ground 2 cont.) he truth, and he promises to hear both sides of
2 the story at the station as I claimed Poland had been blackm-
3 ailing me and asked him if that was a crime. "In some instan-
4 ces," he replies but insists we should talk at the station w-
5 hen he has a personal notepad. I was, I understand ^{now} a psych-
6 ological wreck after the shocking and malicious arrest. I was
7 a victim of Poland's coercion, multiple crimes committed agai-
8 nst me, and a fake arrest. Chuck Witt never showed me the
9 requested warrant, and had showed his true colors when co-
10 mpling a false police report violating both PC842 and PC118.1.
11 b. United States v. Marion 404 U.S. 307 (ru-
12 ling that right to speedy trial guaranteed by
13 the 6th Amendment does not apply until you
14 have been accused of a crime, which may
15 not occur until indictment, yet pre-arrest
16 delay may violate due process) 98 ALB 411
17 (Unfairness or corruption of officers in per-
18 formance of administrative functions in ci-
19 vil or criminal cases in state court as in vi-
20 olation of the 14th Amendment) ⁽¹⁵⁾ Pagtakha-
21 n v. Foulk must rule that pre-arrest de-
22 lay violates due process when it is used
23 as a tactic to harass, taunt, coerce and b-
24 ait one who may face criminal charges wh-
25 en it is evident Police have conspired with
26 the alleged victims who are criminally affi-
27 liated, who have sought prior restraining
28 orders yet deliberately did not serve the accused.

7. Ground 2 or Ground 3 (if applicable):

(14)

The detective violated my 15th state amendment and 5th Amendment rights when he compelled me in an interrogation under false pretenses and continued after I refused to speak further without counsel then resulting in an illegal seizure.

a. Supporting facts: (civil rights claim page 5 line 15 on)

During the ride from Hayward to the Burlingame Police Department, the detective promised under false pretenses he would make a report of my side of the story as I expressed crimes committed against me. Upon interrogation the detective began taking leading statements. I then refused to speak more without counsel as he attempts to put words in my mouth. He continues questioning. Later in closing he asks if I have anything else to say in my defense or any evidence to support my story. I reply so, explaining I had saved journals and emails on a laptop at home as I had intended of filing a lawsuit against Boland and APW. Given the promise of having the material printed for an investigation on crimes committed against me, they escort me home. Instead, the leading officer angrily and aggressively disconnected a PC tower from an entertainment center and sluggishly pulled my notebook from a monitor and music studio workstation without a warrant. (note lines 240-264 of pages #33-34) I was also never shown a warrant as requested upon arrest. PC 842.

b. Supporting cases, rules, or other authority.

CA Art. 1 § 15, 5th Amendment Due Process Clause, Miranda, Escobedo v. Illinois 378 us 478 (continued questioning led to information and seizure of PC and laptop, then later seizure of model replica martial arts weapons), Fruit of poisonous tree doctrine, see page #56, 14th Amendment (1), PC 11B.1.

(14)

(15)

1 (Ground 3 cont.) Haynes v. Washington 373 U.S. 503 (holding that
 2 when a defendant claims that his confession was involuntary the
 3 question is whether his will was overborne at the time he confess-
 4 ed.) Brewer v. Williams 430 U.S. 387 (petitioner was denied the right
 5 to counsel when police interrogated him while transporting him af-
 6 ter a state criminal proceeding had been initiated against him; it is
 7 the burden of the prosecutor to show that the defendant has vol-
 8 untarily, knowingly, and intelligently waived his right to counsel), Es-
 9 cobedo v. Illinois 378 U.S. 478 (refusal by the police to consult with
 10 his lawyer during the course of an investigation interrogation consti-
 11 tuted a denial of the assistance of counsel in violation of Amend-
 12 ment 6), People v. Ireland 70 Cal. 2d 522, 535 (one may invoke 5th
 13 Amendment rights to silence by refusing to continue ongoing in-
 14 terrogation subsequent to waiving that right), Miranda v. Arizona-
 15 a 384 U.S. 436 (defendant must have been informed of his rights before he
 16 may be considered to have knowingly and intelligently waived his r-
 17 ight to counsel), Stansbury v. California 511 U.S. 318 (defendant must
 18 be given Miranda warning "s" if he is in custody and being
 19 questioned) When I was shockingly and maliciously arrested,
 20 I was never "officially" arrested as have¹⁰⁹ had my rights read to
 21 me, or shown a warrant, instead I repeatedly inquired the nature
 22 of my arrest, and again asked for a warrant while being transporte-
 23 d to the BPD for interrogation. Emotional distress was inflicted u-
 24 pon me by the false and illegally performed arrest. I thought I
 25 would be given a fair chance to tell the story but Chuck Wittw-
 26 as in the conspiracy pursuant PC187(a)(2) all along. Pontakhan v.
 27 Foulk must rule a violation of Escobedo, and because I was unde-
 28 r duress and emotional distress, a violation of Miranda.

7. Ground 2 or Ground 4 (If applicable):

~~(15)~~
(16)

The detective violated my 13th state amendment and 4th Amendment rights in his improper seizures of my property conducted as a result of an improper interrogation, the first of which was unwarranted.

a. Supporting facts: (civil rights claim/complaint page 5 line 19 through page 6 line 27)

On 8/11/07 about an hour or so after my arrest, and illegal interrogation, I am brought home under escort to produce exonerating evidence. The detective promised to print out my journals and saved emails and to give me copies to aid in my defense. I also had informed him I had a model katana and naginata at the BPD. He wasn't concerned. Instead of letting me show him files to print, he angrily and aggressively disconnects both computers in a neglectful and damaging demeanor, seizing them to be used against me. I later refuse to speak with him during a contact visit the morning before my arraignment. I permit him to record my scolding of him. He claims that some parts of my initial interrogation was lost. I now believe he may have tampered with it. (see page #6)

Days later he calls my sister to arrange a meeting with her at my studio. He seizes the replica katana and naginata telling my sister he did not intend to use it as evidence, that he had enough to convict me.

b. Supporting cases, rules, or other authority:

CA Art. I § 13, 4th Amendment, CA Art. I § 15, 5th Amendment, Miranda, Escobedo v. Illinois 378us478, Fruit of the poisonous tree doctrine, PC 153, see pages #0.5, 30-31 lines 47-79, PC 135, PC 134, PC 146 (the detective concealed exonerating evidence, prepared a false report after an illegal arrest/seizure). CA Art. I § 28(a) Right to Truth-in-Evidence. PC 118.1.

(17)

Pagtakhan v. Faulk should rule suppression of altered and illegally siezed evidence.

1 ((Ground 4 cont.) United States v. Garza 435 F.3d 73, 75 (ruling that
2 the destruction of evidence is a violation of due process if the
3 exculpatory value of the evidence was apparent before its destru-
4 ction, and if the evidence is of such nature that the defendant
5 cannot obtain comparable evidence), Brady v. Maryland 373 U.S.
6 83 (determining that, for petitioner claiming that the government
7 is hiding exculpatory evidence, one year limitation does not begin un-
8 til the receipt of the evidence), Riley v. Gray 674 F.2d 522 (the
9 petitioner raised his claim of illegally seized evidence, and the ap-
10 peals court granted habeas relief based on the same claim becaus-
11 e an "unforeseeable application of a procedural rule" had preve-
12 nted the petitioner from presenting his claim earlier), Capellan v.
13 Riley 975 F.2d 67, 71 (the focus is to whether a federal court may
14 review a 4th Amendment claim in a habeas petition is the "exist-
15 ence and application of the [state's] corrective procedures" not the
16 outcome of those procedures), Williams v. Taylor 529 U.S. 362 (Mc
17 Williams found a violation of clearly established federal law and/or
18 the Constitution, and showed the Court he had suffered harm fr-
19 m this violation), 98 ALB 411 (unfairness or corruption of officers in p-
20 erformance of administrative functions in civil or criminal cases in
21 state courts as in violation of the 14th Amendment), 33 ALB 2d 1421 (S-
22 uppression of evidence by prosecution in criminal cases as violating co-
23 rection under principles of due process law), PC 141(h) any peace officer who
24 knowingly, willfully, and intentionally alters, modifies, conceals, or moves
25 any physical matter with specific intent that the action will result in a
26 person being charged with a crime, or that the matter will be wrongfu-
27 lly produced as genuine or true upon any trial, proceeding, or inquiry
28 whenever, is guilty of a felony punishable by 1 years in the state prison.

PETITION FOR WRIT OF HABEAS CORPUS (17)

7. Ground 2 or Ground 5 (if applicable):

(X)
(18)

The detective conspired with the deputy District Attorney to have the Court raise an already **excessive bail** from \$600,000 to \$800,000 deliberately violating my 12th state amendment and 8th Amendment rights in retaliation.

a. Supporting facts: (Civil rights complaint page 7 line 8 on)

On 8/14/07 I was visited by the arresting officer and detective in San Mateo County Jail before my arraignment. This morning in a contact visit did he explain that the audio recording of my interrogation was partially distorted, and that he needed a second interview. I refused. He pushed, and I ended up permitting him to record myself scolding him on his misconduct. I explained to him that I was set up with his knowledge, and that I would take this case all the way to trial. I informed him that I would move for an OR. He later claimed that the tape which was distorted was actually a videotape. He was present at my arraignment with two affiliates of APW. When I was called forward, the detective and the two males **huddled up** together along with the deputy District Attorney. Shortly after, my already high bail was **raised even higher**. They leave together. (see pages #27(b) argument, 31 lines 96-109) The detective has also made some condescending insults and a sadistic remark.

b. Supporting cases, rules, or other authority:

CA Art. 1312, 8th Amendment. I was arrested in a trap having been invited for a release contract and return of my money. Earlier I had requested a truce or my money returned. I brought two pairs of extra large lace-up Pro sparring gloves to show Victor I wasn't afraid of him. I posed no threat and this bail is excessive. (no criminal intent)

(19)

Pagtakhan v. Foulk must rule excessive bail imposed from misconduct.

(Grounds 5 cont.) One of the two white males from APW accompanying detective Chuck Witt resembled Chris Cherolis, a former peer who later admitted to me that he never liked me in class, ^{told me} pay behind the money I owe him, that I should go kill myself and do everyone a favor, called me a mark, and repeatedly bombarded my cell phone with harassing messages. This displays Chuck Witt's favoritism and factoring my constructive opinion he may be a racist as these two APW males were of the white supremacist type and were dressed very dirty and low class, displaying hairy legs, unkept hair, and unshaven faces. Chuck Witt described my recitations of verses from the Quran (in 1st interrogation) as "screaming in some foreign language threatening people". APW affiliates constantly mocked and spoke their dislike of my religion. The Burlingame Police, after their illegal seizures of my and my family's property, finally decided to play their southern "beardocks Jesus" music in triumph in the car, which was folk like with extremely honky tones and vocals that sounded like a lamb. I was born catholic, tried Christianity, but settled to be moderately Islamic. This is the true reason I am being maliciously prosecuted after I was set up. I wouldn't doubt the possibility of Witt being bribed (see Prejudices Suffered "regarding APW babes") or sexually interested in Ms Ch.F (note his cropped photo of her), if not already having ^{had} relations with her or other concubines/swingers. Gregg v. Georgia 428 U.S. 153 (The Supreme Court defines "cruel and unusual punishment" as the "unnecessary and wanton infliction of pain" that is "grossly out of proportion to the severity of the crime."), 14th Amendment's Equal Protection.

7. Ground 2 or Ground 6 (if applicable):

The detective has compiled a fraudulent police report in an effort to inflict cruel and unusual punishment violating the 17th state amendment and 8th Amendment as well as Penal Code 134 in his malicious accusations against me. (PC 118.1)

a. Supporting facts: (civil rights complaint page 8 line 17 on)

The police report was falsified by the detective and committed under perjury by the affiliates of All Pro Wrestling. I was not arrested "in the action of causing a scene or picking a fight" as the report stated. (Read by Dr. Samuel) From April '06 through September '06 I did not threaten by way of text, emails, or phone calls anyone of the victims, "repeatedly", nor did I daily sexually harass Melissa or Ms Chif asking for sexual favors. This is a false claim and perjured statement in which I challenge him to provide credible evidence.

I was a member of APW, friends and acquaintances with the alleged victims at those times. I never threatened any female. Many messages sent from mid-September '06 were directed to Rdand, kafu and Jason. The other alleged victims were only sent carbon copies to prove a point. Given the knowledge of the revelation in this petition, it is only obvious the detective instituted gross prejudice in his compilation of the police report.

b. Supporting cases, rules, or other authority:

PC 134, CA Art. 1 § 17, 8th Amendment, Napue v. Illinois 360 U.S. 264 (in regards to perjured statements contributing to the fraudulent report in which prosecution is based) also violating CA Art. 1 § 15 and the 5th & 14th Amendments. PC 474, PC 620 see pages #33-34 lines 240-264, 48. (see definition of fraud on the court on attachment page #4) PC 118.1.

(21)

(about)

1 ((Ground 6 cont.)) From December '06 to April '07,
 2 Melissa and MsChri added me as a friend to
 3 their myspace pages and kept me as a friend.
 4 If I was "daily asking them for sexual favors,"
 5 or "threatening" them, then why didn't Chuck W-
 6 itt, or the Burlingame Police address me or serv-
 7 e me the restraining order instead of commit-
 8 ing PC182(a)(2)? PC13519.05, and restraining ord-
 9 er laws were violated in his conspiracy constitut-
 10 ing entrapment topped off by false accusations
 11 on a false report violating PC118.1. I wouldn't
 12 doubt Chuck Witt being responsible for harassing
 13 text messages sent from APW affiliates' phones
 14 being held as evidence when conducting an alleg-
 15 ed "investigation". Kotteakos v. United States 328 U.S. 750
 16 Brecht v. Abrahamson 507 U.S. 619 (a deliberate and especially seri-
 17 ous error, or one combined with a pattern of prosecutorial misconduct,
 18 might warrant habeas relief even if it did not "substantially influence"
 19 the jury's verdict.), Napue v. Illinois 360 U.S. 264 (conviction on test-
 20 imony known to prosecution to be perjured a denial of due process),
 21 Jones v. Terrison 20 F.3d 849 ("No statute or rule requires that pe-
 22 tition identify a legal theory or include citations to legal authority"),
 23 ..."No really, how bold are you?" Witt asks. I reply "29."
 24 "You still have time to turn your life around!" Witt insu-
 25 lts me." (During hearing) I voted for the 3-strikes law and am
 26 extremely disgusted, as I'm suspicious the DA wants to strike
 27 me for this garbage. Pagtakhan v. Faulk must grant habeas re-
 28 lief due to evident police misconduct and criminal participation.

7. Ground 2 or Ground 7 (if applicable):

(X)

(22)

The detective and District Attorney are grossly negligent of the alleged victim's violations of the 6th state amendment and 13th Amendment which were imposed on myself as I was bound by fraud, libel, and blackmail.

a. Supporting facts: (see attached "cause of actions" in case I'm preparing)

From April '06 to September '06 I was subject to forced labor, in service to Roland Alexander of All Pro Wrestling and to Jason Deadrich of Black Pacts Productions. This slavery was deceitfully disguised and imposed on us students during pre-camp orientation as "paying our dues". (see page #23) Obligated to the above and others including Gabriel Ramirez and kafu, I performed a multitude of tasks. (see page #32 lines 157-177) After all the work I had contributed to the organization I was continually outcasted and joked of. For this reason at op others I decided to leave the organization for another to pursue my career. Roland refused to let me go unless I paid him more money. He then spread lies and gossip that I threatened to kill him, that I spoke ill of the other students, that I've always been a problem, amongst others. (note: matter of fact on page #20, 54 Timeline 3)

b. Supporting cases, rules, or other authority:

CA Art 1 § 6, 13th Amendment (1), PC 181, PC 236.1, PC 182(a) (1)(2) are violations committed by All Pro Wrestling in which I was victimized. (see attachment pages #7, 23, 39) Prosecutors are in violation of CA Art. 1 § 7 and the 14th Amendment's Equal Protection of the laws, PC 118.1.

(2)

(B)

(Ground 7 cont.) Williams v Taylor 529 U.S. 362 (Mr. Williams found a violation of clearly established federal law and/or the Constitution, and showed the Court he had suffered harm from this violation), **Amendment XIV (1868) Section 4** "But neither the United States nor any State shall assume any claim for the loss or emancipation of any slave; but all claims shall be held illegal and void." **Section 5** "The Congress shall have power to enforce, by appropriate legislation." **Fact 1:** All Pro Wrestling held me as a slave. **Fact 2:** All Pro Wrestling assumed rights over me by fraudulent contract. **Fact 3:** I was a victim of criminal coercion. **Fact 4:** Roland and Shannon asked me to sign a release contract, stating I would not sue them. **Fact 5:** I was maliciously arrested illegally. With all factors taken into consideration, prosecution would violate Amendment 14 Section 4 as it will enforce slavery as it makes the State of California assume a claim for the loss of a slave and enforce punishment upon the slave for his self emancipation. **Pogtakhan v. Foulk displays "extraordinary" circumstances.** HABEAS CORPUS PETITION (23)

7. Ground 2 or Ground 8 (if applicable):

(72)

(24)

11-12.1

The Burlingame Police and District Attorney have cancelled the crimes committed against me by the alleged victims of APW violating my right to equal protection protected by the 7th state amendment and 14th Amendment.
(SEE ATTACHED PRO-PER COMPLAINT)

a. Supporting facts:

From July '06 through August '07, with some suspect deception and fraud resuming, I've been victimized by affiliates of All Pro Wrestling (which may include the Burlingame Police detective in regards to PC182(a)(2), PC153) in the following crimes: PC181, PC182(a)(2), PC182(a)(4), PC519(2), PC519(3), PC519(4), PC137(a), PC137(b), PC137(c), PC136.1(1), PC136.1(2), PC136.1(b)(1), PC136.1(b)(3), PC474, PC620, PC422, PC415, PC646.9, PC653m, PC236.1, PC153, PC186.22.(e)(1), PC186.22.(e)(8), PC186.22.(e)(18), PC186.22.(e)(24) and PC186.22.(e)(19) in one form or another as explained in the 59 paged attachment numbered 0 to 56. I believe the detective is knowledgeable of these acts as they under God have had manifested through the eyes of those affiliated with All Pro Wrestling in the time frame allocated. Whether knowledge or negligent, permissance of the crimes committed against me inducing my arrest equals entrapment.

b. Supporting cases, rules, or other authority:

CA Art. 187, 14th Amendment, Due Process Clause. • To establish entrapment, the defendant must show that he or she would not have committed the crime but for the fraud, or undue persuasion. (see page #54 time line(s)) PC118.1. Manifesta probationem non indigent. PC24 PC131.

* REF: MY DOCUMENTS / START OF IT ALL.TXT, PARTIAL REFUND REQUEST.TXT, LAST.TXT
(on notepad file regularly seized)

(25)

Pogtakhan v. Faulk must rule a criminally conspired arrest.

(~~Ground 8 court.~~) I mailed 3 criminal complaints which include the criminal syndicate of All Pro Wrestling's senior affiliates to the clerk of the court on 1/19/08 and to the D.A.'s office on 1/23/08. I am preparing to file a civil complaint against them for liability in the same court. (causes of action attached) The Burlingame Police refused to recognize my evident claims even through their "alleged investigation," and the D.A. is neglecting the truth of APW's performed criminal coercion against me and will have no choice but to suppress this evident truth in their pursuit of an unlawful conviction through the continuing means of a frivolous prosecution. The words "conspiracy, blackmail, entrapment" are evident in the note files I kept on my illegally seized notebook computer the Police and D.A. are suppressing. The words "fraud" and "slavery" may also be evident as I was preparing to sue APW for the criminal conduct committed against me. It is apparent this MCB had ties to the police with Chuck Watt, 98 ALB 411 (unfairness or corruption of officers in performance of administrative functions in civil or criminal cases in state court as in violation of the 14th Amendment). 14th Amendment "No State shall... deny to any person within its jurisdiction the equal protection of the laws." Dugger v. Adams 489 U.S. 401 (stating that a court may grant a writ even in the absence of a showing of cause for procedural default, but only in an "extraordinary" case), Jones v. Tamm 20 F.3d 849 ("No statute or rule requires that a petition identify a legal theory or include citations to legal authority"), B.C.B. Transp. Co. v. Fontaine, supra note 4, 727 F.2d at 9-10 (only information as to alleged fact a crime had been committed came from agent of victim.. does not constitute probable cause.)

HABEAS CORPUS PETITION (25)

7. Ground 2 or Ground 9 (if applicable):

~~(25)~~
(26)
The deliberate delay of the District Attorney's prosecution after a complaint was filed violates the 14th state amendment as well as the speedy trial right secured by the 15th state amendment and 6th Amendment.

a. Supporting facts: (civil rights complaint page 11)

The detective tells me he has been investigating my case for six months prior to my arrest. I learn from counsel the D.A. has been as well. Since a complaint was filed as early as 2/07 (possibly sooner), and the charges consist of multiple felonies dating back to 4/06, there is no doubt in the unnecessary delay present before my 8/14/07 arraignment violating CA Art. 1§14. Till this day have I not been given a copy of the complaint as well after repeated requests. In addition to pre-arrest and pre-arraignment delay, the D.A. conspired with court appointed counsel and doctors to fraudulently use the competency proceedings to suspend time and illegally send me to a mental hospital. I've not been granted the right to a preliminary hearing within the 10 statutory days of my arraignment, instead I will be granted one AFTER A MINIMUM OF (now) 11 MONTHS. This "cover-up and fraud" grossly violates the Due Process Clause.

b. Supporting cases, rules, or other authority:

CA Art. 1§14, CA Art. 1§15, 6th Amendment, 14 Amendment
Dickey v. Florida 398us30, Klopfer v. North Carolina 386us213, McNeely v. Blanas 336 F.3d 822, 824 n.1 (9th Cir. 2003). see attachment pages #26, 40*, 46-47, 51-54. Rule 48(b) Federal Rules of Criminal Procedure.
PC1382. Failure to file information or bring case to trial.

(27)

(6-round 9 cont.) Engle v. Isaac 456 U.S. 107 (stating that in some cases "cause" and "prejudice" will include the correction of a fundamentally unfair incarceration), Dickey v. Florida (relief granted after a conviction in violation of speedy trial right), Klopfer v. North Carolina 386 U.S. 16-13 (ruling that state may not postpone prosecution of any case for an unlimited period even though accused remains free wherever he desires), Doe McNeely v. Lou Blanas 336 F.3d 822 (pre-trial detainees right to a speedy trial had been violated prior to a preliminary hearing granting habeas relief), United States v. Marion 404 U.S. 307 (ruling that right to speedy trial guaranteed by the 6th Amendment does not apply until you have been accused of a crime, which may not occur until indictment, yet pre-arrest delay may violate due process), 98 ALB4-11 (Unfairness or corruption of officers in performance of administrative functions in civil or criminal cases in state court as in violation of the 14th Amendment), 33 ALB2d 1421 (Suppression of evidence by prosecution in criminal case vitiating conviction under principles of due process law). I was first wrongfully accused of stalking the female wrestler MsChif in July '06. After continuous harassment I left All Pro Wrestling in September '06. In that same month did Roland begin falsely accusing me with false accusations, blackmailing me to pay him \$1,000 more, conspiring to have me arrested, coercing me so that I do not take legal civil or criminal action against him and his affiliates. In December '06 he informed me that several sought restraining orders against me. I was never served these restraining orders deliberately suppressed by the police and prosecutors. (making my arrest illegal) Pogtakhan v. Foulk must rule pre-arrest delay a violation of due process atop apparent conspired speedy trial right violation.

7. Ground 2 or Ground 10 (if applicable):

~~10~~
28

The District Attorney conspired with court appointed counsel and doctors to fraudulently abuse competency proceedings to illegally send me to a mental hospital committing moral turpitude and malpractice.

a. Supporting facts: (civil rights complaint page 11 line 9 on)

On the evening of 8/22/07 I meet Eric M. Hove for the first time. After his repeated begging that I waive time, I assert that I want a speedy trial. The next morning in court, the detective is joking with the deputy D.A. He leaves the courtroom from sitting behind her. Shortly, she walks to meet Eric at the aisle and they exit the courtroom. (possibly to meet the detective) They return a moment before my case is called and Eric proclaims doubt. After evaluations all three doctors tell me that I am competent enough to aid in my defense, but two (Dr. Singh & Dr. Samuel) submit negative reports. This is an act of moral turpitude, fraud, (legal) malpractice, and abuse of process as Eric only spoke with me no more than ten minutes before prematurely proclaiming doubt. Nor have I ever spoken incompetent to him or both doctors. He did this because I refused to waive time. (see attachment pages #26, 40*, 46-47, 51-54) Misrepresentation.

b. Supporting cases, rules, or other authority:

(SEE ATTACHED LETTER TO D.A. & SHERIFF)

- Rules of Procedure of the State Bar Title IV Part B 2.3 Offenses involving a moral turpitude, fraud, dishonesty or concealment. *People v. Pokovich 39 C4th 1240, 1253. Welfare & Institutions Code Art. 7§5331. (the D.A. has *violated Due Process with public (media) slander) CA Art. 1§1, CA Art. 1§15, CA Art. 1§17, CA Art. 1§29, 14th Amendment

(29)
(Ground 10 cont.) A more complete description of this grounds
found on Civil Rights Complaint Under 42 U.S.C. § 1983 (attached)
page #22 chim (4), page #11 lines 15 to page #14 line 24. ⁶ Wick Wo
v. Hopkins 118 U.S. 356 (finding that the question of constitution-
ality of the laws involved was a good ground for issuance of a writ of habe-
as corpus), Vuitch v. Hardy 473 F.2d 1370 (holding that defendant doctor
was entitled to habeas corpus relief on theory that state abortion statute
was unconstitutional), Kottekas v. United States 328 U.S. 750 and Brecht
v. Abrahamson 507 U.S. 619 (a deliberate and especially serious error, or one
combined with a pattern of prosecutorial or prosecutorial misconduct, might
warrant habeas relief), Taylor v. Maddox 366 F.3d 922 (finding a state
court's determination of facts is unreasonable if no finding was made
and the court "should have made a finding of fact but neglected to do so"),
Nunes v. Mueller 350 F.3d 1045 (state court's findings of fact were
unreasonable when court made the findings without holding an evi-
dentiary hearing), Pate v. Behrens 383 U.S. 375 (defendant entitled to co-
mpetency hearing), Johnston v. Norcor 249 F.3d 20, 22 (violation of due
process when trial court did not hold a competency hearing), 98 ALB411
(Unfairness or corruption of officers in performance of administrative functions
in civil or criminal cases in state court is in violation of the 14th Amendment),
The fraudulent competency proceedings were conclusory, and ev-
en after I was not given a preliminary hearing, I also was not giv-
en a competency hearing to contest the fraudulent findings whic-
h were instituted because I wanted a speedy trial. Dr. Singh and D-
r. Samuels were in participation with Eric Hovers and the D.A.'s
abuse of process of PC 1368 & PC 1370. See grounds 13 & 14 & 17.
Pogtakhan v. Faulk must rule evident due process violations
in competency proceedings, abused to pro-long a preliminary hearing
and trial.

7. Ground 2 or Ground 11 (if applicable):

The District Attorney has violated the Due Process Clause protected by the 15th state amendment and 5th Amendment by the offensive disclosure of false and fraudulent material to the media in pre-trial slander and defamation.

a. Supporting facts: (civil rights complaint page 10 and attached articles)

In August '07, October '07, and December '07, the Court and prosecutors have voluntarily released false information to the media which are known (matter-of-factly) by them to be false, disputed fraud, and obvious perjured hearsay. The District Attorney of San Mateo is in fact closely tied to articles published in the Daily Journal. They deliberately misconstrued information taken from an application for counsel and disclosed that "I was 30 years old and lived with my parents." THIS IS FALSE. I am 29, was living independently, and financially supported my parents. IN ADDITION TO THAT DEFAMATION, the District Attorney having conspired to illegally send me to a hospital, used the fraudulent reports to publicly SLANDER ME AS "INCOMPETENT TO STAND TRIAL" as a cover up of their own very fraudulent case and prosecution pending against me. I AM COMPETENT! (I am NOT the incompetent 30 year old living with his parents.) This is LIBEL! (ous)

b. Supporting cases, rules, or other authority: (SEE ATTACHED LETTER TO D.A. & SHERIFF)

CA Art. 18.15, 5th Amendment, denied speedy trial, People v. Pokovich 39 C4th 1240, 1253 (use of competency proceedings for defamation and slander prior to trial) • Rules of Procedure of the State Bar Title IV Part B2.3 (the D.A. and court appointed counsel are guilty of these offenses as well as the Court) Chapman ET AL v. California 386 us 18

(31)

(Ground 11 cont.) See civil rights complaint under 42 U.S.C. § 1983 (attached) page 10 and articles included photocopied from papers and the internet publicized on 8/15/07, 8/24/07, 8/30/07, 10/25/07, 12/22/07, & 2/25/08 which were also distributed to other newspapers even after my requested but denied, orally requested gag order on 8/14/07 as I foresaw all along this would be the issue. See civil rights complaint page 6 line 27 to page 7 line 27. In addition to the prejudices suffered included in this petition, two of the alleged victims, a gangster and a prostitute (at least formerly), have made it to big time wrestling companies WWE and TNA. The misconduct of doctors, counsel, prosecutors, and the court have impaired me to a fair trial as they planned. These two former rejects have finally made it in the "last man or two." The publicity case they conspired to falsely move is set for the tabloids as I've foreseen. **b.** Woods v. Dugger 923 F.2d 1454 (finding deprivation of a fair trial after extensive pretrial publicity and presence of uniformed prison guards in audience at trial when victim was a prison guard.) It is highly likely L.A.D.A. prosecutor ^(Rhonda Saunders) conspired with Steve Uggstaffe to produce a follow up story to her/his interests, as my invalid prior was aired on Inside Edition, and ran a "stalker special" on VH1. Pagtakhan v. Foulk must rule an invalid case that is highly prejudicial.

7. Ground 2 or Ground 12 (if applicable):

11-12.1

(X)

(32)

The District Attorney and court appointed counsel have conspired and achieved to oppress me in unnecessary suspended proceedings in an effort to push a plea bargain **denying my right to trial by jury** secured by the 16th state amendment.

a. Supporting facts: (civil rights complaint page 16 on) (1370 is being used to compel acceptance of a plea bargain)

When I first met Eric M. Hove he misinformed me explaining that my prior of seven years ago will be used against me, and that he needed me to waive time to receive the file. I asserted I wanted a speedy trial and would fight this case all the way because I was set up and the prosecution's case was weak and would fall apart with a speedy trial. He repeatedly asked me to waive time. Refusing, he finally agreed. The next morning he deceitfully misrepresents me, proclaiming doubt to suspend proceedings, after conspiring with the deputy D.A. Since then he has been a repeated fraud breaking repeated promises. He is a former deputy D.A. himself with apparent loyalties. Since I was ordered for mal/treatment Mr. Hove attempted to comfort me with the explanation of time credits, and that I am still receiving them. Despite his and Omar's promises of questioning witnesses, they haven't. Omar spoke of Eric working wonders. **"I was framed"** and am not interested in those **plea bargain wonders**.

b. Supporting cases, rules, or other authority: (SEE ATTACHED NAPA STATE HOSPITAL COMPLAINTS)

- CA Art. 1 § 16, CA Art. 1 § 29, 6th Amendment, 14th Amendment
- Due to the fact that Mr. Hove has colluded with the D.A. in moral turpitude, I was never legally given my right "to have the assistance of Counsel." Klopper v. North Carolina 386 us 213 (see attached timeline page #54)
 - PC 131. misrepresentation, concealment, fraudulent conduct

11-12.1

7. Ground 2 or Ground 13 (if applicable):(X)
(33)

Court appointed doctors knowingly and willingly misdiagnosed me by way of fraud to be incompetent in their reports submitted to the Court violating Penal Code § 134 Preparing false documentary evidence.

a. Supporting facts: (civil rights complaint page 22 claim (14))

After I was fraudulently presumed incompetent by court appointed counsel because of my refusal to waive time and assertion that I wanted to exercise my speedy trial right, I was eventually evaluated by Dr. Singh (recommended by the D.A.) and Dr. Samuel (recommended by counsel). In Sept. '07, Dr. Singh replies "You're very articulate and smart and I believe you can help your lawyer in your defense..." after a suspicious evaluation. On Oct. 23 '07, Dr. Samuel replies "Well you're competent enough to stand trial..." after a very short and unprofessional evaluation. (please read attachment pages #26, 40, 46-47, 51-53 for thorough explanation). They were the first and ~~third~~ **third** doctors. The second doctor which submitted a positive competency report conducted a very formal and professional evaluation in which I had no suspicions. **This petition**, the prior to the U.S. District Court, and the 59 paged attachment, **should be proof** enough to competency. (SEE ATTACHED LETTERS AND COMPLAINT)

b. Supporting cases, rules, or other authority:

PC 134, CA Art. 1 § 15, CA Art. 1 § 29, Amendment 6th § 14th Welfare & Institutions Code Art. 7 § 5331 "...no person may be presumed to be incompetent because he has been evaluated or treated for a mental disorder..." **Evidence Code § 177. Dependant person (which I am not)** see attachment pages #3-4, 7, 26, 40, 46-47, 51, 53. **Tort:**

(34)

(Ground 13 cont.) For more complete explanation see Civil Rights Complaint page 22 Claim (4)). Dr. Jatinder K. Singh voluntarily informed me she was independent from the D.A. without me asking her. This was a lie as she was chosen by the D.A. and was obvious in the way she attempted to brainwash me into considering a 6 year plea bargain even after expressing I would fight this case and demand/wanted a speedy trial. Dr. Thomas E. Samuels also lied on the report saying that I claimed "I was in love with the victim, I believed she loved me in return, and that in this mutual love I sought to pursue a relationship with her. This contradicts true evidence. I was always trial competent and I certainly am not delusional. All Samuels did was scold and chastise me regarding statements/claims on a perjured and falsified police report that contradicts the truth.

b. *Gadinez v. Moran* 509 U.S. 389 (The court identified the test for legal competency as "whether [the defendant] has sufficient present ability to consult with his lawyer with reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him"; *Charles G. Pokovich* 39 c 4th 1240 (the court held that defendant's federal constitutional privilege against self incrimination under the 5th Amendment was violated); *Napue v. Illinois* 360 U.S. 264 (conviction on testimony known to prosecution to be perjured as denial of due process); 33 ALB 2d 1421 (Suppression of evidence by prosecution in criminal case as violating conviction under due process law). I argue I was never impaired from aiding my incompetent lawyer. The false statements made by Samuels is perjured. My due process rights were violated as I was never given a hearing despite my disputes. *Pattakhan v. Foulk* must rule deliberate misdiagnosis by court appointed doctors.

7. Ground 2 or Ground 14 (if applicable):

11-12.1

The Court is in violation of my rights to Due Process secured by the 5th state amendment and 5th and 14th Amendments imposing an **illegal placement order committing me** to a mental hospital.

a. Supporting facts: (civil rights complaint page 13 line 26 on) ^(SEE ATTACHED LETTERS AND COMPLAINTS)

The Court has been negligent of my rights to Due Process despite my repeated objections. On Oct. 24 '07, I objected and made an oral motion to the Judge (Honorable John Grandsaert) for a Marsden hearing on grounds of a misrepresentation (counsel) and fraud on the court (negative doctor reports). He then took my motion under advisement but said he would stand by the reports despite my dispute as I claimed "I am very competent." I am later informed by Eric Hove that I will be granted a Marsden hearing "after" treatment. On Nov. 16, counsel was not present and I again **address** the court in **my dispute** of the fraudulent misconduct, objecting to the illegality of the proceedings. On Dec. 14, counsel was not present and that fact is made a laughing matter. On Dec. 21 '07, Eric and the Judge speak on record of the delay in transfer status. After, I again speak up for myself and serve the D.A. with prior petition papers.

b. Supporting cases, rules, or other authority: ^(see court transcripts)

CA Art. 1 § 15, 5th and 14th Amendments, Fraud on the court, Intrinsic fraud, Fraud, Libel, (fraudulent) Misrepresentation, Misprision, Magna culpa dolus est, Manifesta probatione non indigent, Jus et fraus nunquam cohabitant, McNeely v. Blanas 336 F.3d 822, 824 (habeas relief granted due to continuance abuse.)

(36)

(Ground 14 cont.) *Kotteachos v. United States* 328 U.S. 750 and *Brecht v. Abrahamson* 507 U.S. 619 (a deliberate and especially serious error, or one combined with a pattern of prosecutorial misconduct, might warrant habeas relief even if it did not "substantially influence" the jury's verdict), *Termyn v. Horn* 266 F.3d 257 (finding that defendant's counsel had been ineffective for failing to conduct adequate investigation, and that state court's decision to the contrary was objectively unreasonable), *Edwards v. Balisok* 520 U.S. 641 (when trial judge is not impartial), *Schell v. Witek* 218 F.3d 1017 (holding that a trial court may not ignore the timely motion for new counsel, such as completely an indigent defendant with appointed counsel), *Godinez v. Moran* 509 U.S. 389 (The court identified the test for legal competency as "whether [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him"), *Pate v. Robinson* 383 U.S. 375 (defendant entitled to competency hearing), *Johnson v. Norton* 249 F.3d 20, 22 (violation of due process when trial court did not hold a competency hearing), *Reynolds v. Norris* 86 F.3d 796 (failure to hold additional competency hearing violated due process), *McFarland v. Yukins* 366 F.3d 688 (requiring defendant to go to trial with an attorney with a conflict of interest to defendant was contrary to clearly established federal law), *Miller v. Dormine* 310 F.3d 600 (state court's application of harmless error rule to defense attorney's waiver of jury trial without defendant's consent was contrary to clearly established federal law because federal law holds that denial of a jury trial is a "structural error" and always harmful), *Taylor v. Maddox* 366 F.3d 922, 1000 (finding that a state court's determination of facts is unreasonable if no finding was made and the court "should have made a finding of fact but neglected to do so"), *Nunes v. Mueller* 350 F.3d 1045, 1055 (state court's factual findings were unreasonable when court made the findings without holding an evidentiary hearing), *Mask v. McGinnis* 233 F.3d 132, 140 (refusing to give state court's "factual findings" a presumption of correctness).

HABEAS CORPUS PETITION (36)

(37)

(Ground 14 cont.) because there were no factual findings but only conclusions) *Callahan v. Warden of Cal. Men's Colony*, 365 F.3d 691 (deciding that there is no deference given to state court's fact findings when those findings were "arrived at through the use of erroneous legal standards"); *Torres v. Erranty*, 223 F.3d 1103 (concluding state court's factual determination was unreasonable under § 2254(b)(2) if it was "conclusionary and not fairly supported by evidence on the record"); *Miller v. Dormire*, 310 F.3d 600 (determining that the state court's finding that defendant had waived his right to a jury trial was unreasonable when the record was "devoid of any direct testimony from [defendant] regarding his consent to waive trial by jury"); *Norris v. Schötten*, 146 F.3d 314 (stating that an error in limiting cross-examination will allow for a grant of habeas relief only if the error rises to the level of a denial of fundamental fairness); *Nelson v. Walker*, 121 F.3d 828 (defendant satisfied requirement of substantial showing of a denial of a constitutional right, as the record indicated that further inquiry was necessary into his claim that his confession was involuntary); *People v. Marsden*, 2 Cal. 3d 118 (motion permitting a defendant to articulate why he is dissatisfied with his court appointed counsel and why he should be relieved); *Napue v. Illinois*, 360 U.S. 269 (conviction on testimony known to prosecution to be perjured as a denial of due process); *Chapman ET AL v. California* (Supreme Court held that the "machinegun repetition of a denial of the constitutional rights described and calculated to make petitioner's version of the evidence worthless, "was not harmless error), miscarriage of justice: a grossly unfair outcome in a judicial proceeding, as when a defendant is convicted despite lack of evidence on a essential element of the crime. I argue I was denied a competency hearing and a chance to publicly prove doctors wrong. I was denied competent counsel as he refused to address and object the findings. ***Pagtokhan v. Foulk* should show evidence of one who was unconstitutionally railroaded without shown cause, and not one single hearing, into a fraudulent commitment.**

7. Ground 2 or Ground 15 (if applicable):

11-12.1

(X)
(38)
My court-appointed counsel has violated my Due Process Rights secured by the 15th and 29th state amendments and 5th and 14th Amendments in his refusal to disclose to me the complaint and discovery items.

a. Supporting facts: (civil rights complaint page 16 claim (3))

My court-appointed counsel Eric M. Hove has been negligent to my Due Process Rights as well as a gross misrepresentation. I've discovered the fact that he is a former prosecutor and he has confirmed that Omar (appointed investigator) told me he became a defense attorney very recently in March '07. It seems that he is still very loyal to prosecutors as he has repeatedly failed to deliver assistance. I've repeatedly requested a copy of the complaint, police report, the "exonerating text files on my illegally seized laptop" as well as copies of Dr. Singh and Samuel's reports. He has always been an insult to my intelligence by repeatedly promising to conduct questioning and investigations, to no avail! In order to win my trust he talks the talk but doesn't walk the walk! He is a fake who has done nothing but fraudulently suspend proceedings and continued to insist I waive time! (see attachment)

b. Supporting cases, rules, or other authority:

CA Art. 1 § 15, CA Art. 1 § 29, 5th & 14th Amendments. Penal Code § 1054.1, under CA Art. 1 § 14, "shall immediately give the defendant a copy of the complaint." under CA Art. 1 § 28(d) "relevant evidence shall not be excluded in any criminal proceeding." (see page #11 for original request)

*REF: MYDOCUMENTS/STARTOFITALL.TXT, PARTIALREFUNDREQUEST.TXT, LAST.TXT
(on notebook illegally seized)

(39)

1 (Ground 15 cont.) Hottel v. United States 328 U.S. 750, Brine v. Al-
2 laham 507 U.S. 537 (a deliberate and especially serious error or one combined

3 with a pattern of prosecutorial misconduct might warrant habeas relief even if it didn't
4 "substantially influence" the jury's verdict), Williams v. Taylor 529 U.S. 366 (Mr. Williams

5 found a violation of clearly established federal law and/or the Constitution, and showed the
6 court he had suffered harm from this violation), Termon v. Horn 266 F.3d 257 (finding th-

7 at defendant's counsel had been ineffective for failing to conduct a adequate investigation,
8 and that state court's decision to the contrary was objectively unreasonable), Prady v. Mary-
9 land 373 U.S. 83 (upon request by the defense, prosecution must turn over evidence to the def-

10 ense if the evidence is exculpatory, impeaching or material). (The Court held that suppression of evidence favorable to an accused upon request violated the Due Process Cl-

11 ause of 14th Amendment), 33 Al. R.2d 142 (Suppression of evidence by prosecuti-

12 on in criminal case as vitiating conviction under principles of due process law), Paul
13 Dear Barker ETAL v. The Municipal Court of the Salinas Judicial District of M-
14 onterey County (peremptory writ granting dismissal of complaint on violation of

15 state and federal speedy trial right). The DA and police have suppressed ex-

16 culpatory evidence which clearly show cause to "harassment, fraud, blackmail,
17 creation, conspiracy, and entrapment" I wrote of even before my illegal ar-

18 rest. Prosecutors have refusal to disclose this material, and Eric M. Hove has
19 taken the role as a prosecutor also suppressing this material. They are refus-
20 ing to disclose the contradictory police report, complaint, and doctor's reports.
21 I've been falsely imprisoned since August '07 without being given a si-
22 ngle legal document! How am I not prejudiced by this atop the detrim-

23 ental effects of the objectively disputed excessive lapse of time before
24 even a preliminary hearing, which is used to show why one should be
25 detained? Pagtakhan v. Faulk must show habeas

26 corpus relief due to machine gun repetition
27 denial of pre-preliminary detainees due rights.
28

7. Ground 2 or Ground 16 (if applicable):(28)
(40)

11-12.1

The District Attorney is perpetrating a malicious p-rosecution in their excessive felony charges in place of probable misdemeanor offenses displaying misconduct in their fraudulent failure to commence proceedings.

a. Supporting facts: (civil rights complaint page 25 line 2 on)

I was arrested for seeking a truce; return of my \$2,000, or to have a boxing match with Kafu in the ring. This was late afternoon, and I left the lot across the street from the Hayward gym in peace. Roland and Shannon invited me ^{back} to the facility to sign a release contract and pick up a return of my money. I even spoke with Roland on the way back that night in which he assured me "no tricks". I was maliciously apprehended in a unnecessary display of force. The D.A. is now maliciously charging me with excessive felonies in hopes I take a plea bargain. They have failed to show cause and committed abuse of process to suspend proceedings. Probable cause leans towards the more applicable misdemeanors of PC 412, Boxing, PC 415, Fighting; noise; offensive words, PC 653m, Telephone calls or contact by electronic communication device with intent to annoy, rather than felonies.

b. Supporting cases, rules, or other authority:

CA Art. 1 § 1, CA Art. 1 § 15, CA Art. 1 § 28(d), 5th/6th/14th (1) Amendments, Penal Code § 412, § 415, § 653m, supporting evidence includes: 2 pairs of boxing gloves & cell phone. Failure of prosecution's abiding of CA Art. 1 § 14 undermines the integrity of felony prosecution. see attachment pages # 29(a), 29(b), 56 for related case law.

7. Ground 2 or Ground 17 (if applicable):

The District Attorney, Court, counsel, and doctors have committed me to harass and gain a tactical advantage and compel me to accept false and fraudulent reports, medication, and a deal.

a. Supporting facts: (civil rights complaint page 25 line 11 on)

On 2/7/08 I was admitted into Napa State Hospital. Upon meeting Dr. Frishman he tells me court appointed doctors have diagnosed me "delusional." A surprise I tell him it's a misdiagnosis. On 2/14/08 he says they find no reason to that. (SEE ATTACHED HOSPITAL COMPLAINTS) On 3/6/08 he surprises me proclaiming they are "exercising the delusional diagnosis." I object as I come to learn that the Court has CRIMINALLY LIBELOUSLY diagnosed me as "suffering from erotomania, erotic delusions." I am a 29 year old virgin male whose chastity includes never of having penetrated a female with any finger, never have had oral sex performed on me, never being with a female. This psychological abuse and harassment initiated by the Court is SADISTIC and has continued on 3/20/08. I will continue to object to prosecutor's disgusting "diagnosis" in WHICH THEY ARE RELYING and refuse to take medication that will effect my peace of mind already suffering from the deviously SADISTIC ways of County employees! They are torturing me with thoughts of sex and accusing me libelously of being a pervert! This IS NOT TREATMENT BUT HARRASMENT instituted by the parties stated and a fraudulent diag-

b. Supporting cases, rules, or other authority:

ce of mind already suffering from the deviously SADISTIC ways of County employees! They are torturing me with thoughts of sex and accusing me libelously of being a pervert! This IS NOT TREATMENT BUT HARRASMENT instituted by the parties stated and a fraudulent diag-

7. Ground 2 or Ground 17 (if applicable):

(continued) ⁽²⁸⁾₍₄₂₎ basis for the prosecution to gain a tactical advantage obtaining time to prepare and present a perverted case to the Court. Court appointed doctors evaluations were based on

a. Supporting facts:

uncontested, uncredible, and false accusations on a CONCEALED FALSE POLICE REPORT! Any respectable investigation, and dissection of this petition, attachments, and references will show and conclude I was victimized (and psychologically tormented) by a sadistic and scandalous mob. This has been continued by those who are supposed to uphold justice, and others who are supposed to treat the ill. I've a stable, sane, and peace of mind despite normal anxiety and stress inflicted by injustice and slander. I'm in great physical shape enjoying the fresh air. I've been in **TOTAL SOBRIETY** for 17 months and **DO NOT** need drugs. PCI370 is being abused in my case (as I've witnessed in others) to compel me to accept the fraudulent practices of my dump-truck lawyer IN HOPES I TAKE A PLEA BARGAIN.

b. Supporting cases, rules, or other authority:

N. My doctor is undoubtedly performing discovery for prosecutors in which he may matter of factly misconstrue what I say to him. They treat and speak to you as you were guilty, discouraging you from fighting your case.

B. In violation of 5th, 6th and 14th Federal Law.

(43)

(Ground 17 cont.) Habeas v. United States 324 U.S. 750, Brecht v. Abrahamson 507 U.S. 619 (deliberate or especially serious error, or one combined with a pattern of prosecutorial misconduct, might warrant habeas relief even if it did not "substantially influence" the jury's verdict); Williams v. Taylor 529 U.S. 362 (Mr. Williams found in violation of clearly established federal law and/or the Constitution, and showed the Court he had suffered harm from this violation); Hicklin v. Hays 112 U.S. 356 (finding that the question of the constitutionality of the laws involved was a good cause for issuance of writ of habeas corpus); Strickland v. Washington 476 U.S. 661 (holding that petitioner's counsel's competency hearing grants habeas relief if the habeas was not harmless error); Rock v. Arkansas 483 U.S. 474 (holding that defendants have a fundamental constitutional right to testify in their own behalf); Bell v. Cone 533 U.S. 385 (when petitioner is denied counsel at a "critical stage" of the proceedings); Goss v. Murray 509 U.S. 309 (the court identified the test for legal competency as "whether [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him"; Chapman v. California (Supreme Court held that the "machine gun repetition of a denial of the constitutional rights desired and calculated to make petitioner's version of the evidence worthless," was not harmless error); United States v. Marion 424 U.S. 307 (notes that pre-trial delay used to harass and gain a tactical advantage over a defendant may violate due process if the defendant's right to a fair and impartial trial may be impaired).

Fact #1: I was deemed competent enough to aid my lawyer and to stand trial. Fact #2: It took 3.5 months before I was admitted into Los Angeles State Hospital, after misdiagnosis and a fraudulent commitment. Fact #3: On my second day here I pass a "competency assessment" test. Fact #4: A week later my I.Q. grades 118 "near superior".

Pogtakhan v. Foulk must rule a pre-trial delay deviously committing an individual by abuse of PCI 368 & PCI 370, as a tactic to pro-long a preliminary hearing, unconstitutional.

HABEAS CORPUS PETITION (43)

7. Ground 2 or Ground 18 (if applicable):

(23)
(44)

The Superior Court violated my right to competent and conflict-free counsel protected by the 15th state amendment and 6th Amendment by acts of malpractice and fraud performed by counsel

a. Supporting facts: (civil rights complaint page 16 claim (3))

In Sept. '07 I passed competency exam by Brad Novak. On 2/8/08 I passed a competency assessment by Dr. Cristiano. On 2/14/08 during my Wellness & Recovery Planning conference he proclaims "I did very well on them." I'm then given a I.Q. test by "Dr. C." on 2/15/08 he compliments me saying that my I.Q. is "ABOVE AVERAGE, close to NEAR SUPERIOR" as I scored 118. Besides the misdiagnosis of other doctors (SEE STATE HOS - PITAL COMPLAINTS) which Eric M. Hove "refused to reveal and contest" (SEE ATTACHED LETTERS) I'm competent. He was absent on 10/24, 11/16, 12/14, I'm UNREPRESENTED on 1/2, and absent 1/30. On 1/31 he visits me promising to disclose all requested documents the next morning. 2/5 he fails again promising to let sham Omar deliver them. He asks the judge to sign the order he (Hove) typed despite my "objections." On

b. Supporting cases, rules, or other authority:

all those occasions have I addressed the court. Mr. Hove's actions were more than negligent and intentional. PC182(a)(3), see attached complaints against County employees. Rules of Procedure of the State Bar Title IV Part B 2.3 (this ground is complimented by others and attachments)

(23) (44)

(45)

(Ground 18 cont.) Eric Musser Hove has neglected the simple claim that Chuck Witt had violated Judicial Council's Law of arresting me when I was arrested without ever being served a deliberately withheld restraining order. APW affiliates themselves violated. Eric Hove's plan on defending me he has stated, that (1) we waive time, (2) have a preliminary hearing (3) he'll visit me on "1" day before trial to develop a line of questioning, and (4) he will not let me testify. He has even insulted me putting my life less worthy than an "animal", trying to feed me with guilt as he performs discovery for the D.A. (his ~~allegedly~~ X employer) when he questioned me on a reply text message regarding Victor Cirone, "ka fu", threatening me with his 150 lb. dogs I had sent. He has failed to investigate and I do no doubt the possibility of Hove siding with APW affiliates when he was supposed to question them, then failing to tell me the truth of his and Omar's foretold visit to APW, yet instead withheld from telling me they actually went. Possibly bribed by APW, as stated in "Prejudices Suffered." Please read claim (3) on my federal lawsuit against Hove. Strickland v. Washington 466 U.S. 668 (standard for establishing ineffective assistance of counsel is whether attorney's performance was objectively reasonable and whether deficient performance prejudiced the defense). Terry v. Horn 266 F.3d 257 (finding that defendant's counsel had been ineffective for failing to conduct adequate investigation, and that state court's decision to the contrary was objectively unreasonable). Brown v. Myers 137 F.3d 1154 (ruling that counsel failed to investigate and present available testimony supporting petitioner's alibi). Filster-

(46)

Paytakhan v. Foulk must rule extraordinary misconduct by court appointed counsel.

(Ground 18 cont.) v. Garrison 720 F.2d 812 (holding that defendant was denied effective assistance of counsel where counsel failed to object to evidence that the defendant exercised his right to remain silent) Forke v. Georgia 493 U.S. 544 (holding that defendants have a constitutional right to testify in their own behalf) Pell v. Cone 535 U.S. 685 (where petitioner is denied counsel at a critical stage of the proceedings) Schall v. Witt 278 F.3d 1017 (holding that a trial court may not ignore the timely motion for new counsel by an indigent defendant with appointed counsel) United States v. Calabro 47 F.2d 973 (defendant must show good cause for rejecting assigned counsel, such as complete breakdown in communication, a conflict of interest, or irreconcilable difference) Wiggins v. Smith 539 U.S. 510 (granting defendant's habeas claim for ineffective assistance of counsel where counsel failed to investigate defendant's mitigating life history) McFarland v. Yukins 356 F.3d 688 (requiring defendant to go to trial with a attorney with a conflict of interest to defendant was contrary to clearly established federal law) Cink v. United States 59 F.3d 296 (requiring an evidentiary hearing where petitioner alleged trial counsel abandoned defense strategy because of conflict of interest) United States v. Blaglock 20 F.3d 1468 (requiring evidentiary hearing where defendant claimed counsel's failure to inform defendant of government's plea offer constituted ineffective counsel) Williams v. Taylor 529 U.S. 362 (Mr. Williams found a violation of clearly established federal law / the Constitution, and showed the Court he had suffered harm from this violation. Fact #1 Have understood I wanted a speedy trial Fact #2 Have conspired with deputy D.A. Jane Doe on 8/23/07 to suspend proceedings. Fact #3 Have conspired with Thomas E. Samuel to commit me during a back to back visit from them on 10/23/07. Fact #4 I objected to conclusions on 10/24/07. Fact 5: I demand Have to do whatever it takes to stop fraudulent commitment. on 11/15 he claims he can't. Fact 6: I demand a Pate hearing on 11/16/07. Fact 7: Have breaks promises to disclose requested documents and writes commitment order.

(see 59 paged attachment
civil rights complaint)

HABEAS CORPUS PETITION (46)

7. Ground 2 or Ground 19 (if applicable):

(24)
(47)

I'm being falsely imprisoned on untried charges, a result of multiple crimes committed against me by the alleged victims, detective, counsel, doctors, the D.A. and Court.

a. Supporting facts: (civil rights complaint page 20 line 13-23)

On 1/19/08 I mailed 3 criminal complaints to the Clerk of the court. On 1/23/08 I sent copies to the District Attorney's office. Both included letters. (see copies of those complaints attached) They are crimes that have been committed against me through the very eyes of those stated, under the omnipotent and knowing eyes of thee God of Israel and The Prophet". I do not ask for their prosecution, only that I am given justice upon granting of this writ. County employees should however be diciplined. The facts and evidence is before you regarding them. They only need admit fault. They are in denial and walk with false pride when amongst those who've witnessed and know the truth. Tis a bad faith prosecution.

b. Supporting cases, rules, or other authority:

Proverbs 21:12 "The Righteous Man takes note of the house of the wicked, then brings the wicked to ruin." Fed. Const. 5, Fed. Const. 6, Fed. Const. 14(1), Ca. Const. 1, Ca. Const. 14, Ca. Const. 15, Ca. Const. 28(d), Malitiis hominum est obviandum.

(24)(47)

(48)

(Ground 19 cont.) Reynolds v. Norris 86 F.3d 796 (failure to hold additional competency hearing violated due process), Williams v. Taylor 529 U.S. 362 (Mr. Williams found a violation of clearly established federal law and/or the Constitution, and showed the Court he had suffered harm from this violation), Torres v. Puerto 223 F.3d 1103 (concluding state court's findings of fact was unreasonable under § 2254(d)(2) if it was "conclusively and not fairly supported by evidence on the record"), Frazer v. United States 18 F.3d 778 (entitling prisoner to evidentiary hearing unless files and record of the case conclusively show that the prisoner is not entitled to relief), House v. Bell 126 S.Ct. 2064 ("higher standard of review does not apply in cases where there is a claim of actual innocence"). PC13519.05 Stalking: training course and guidelines "in the training of law enforcement in California in the handling of stalking complaints and also develop guidelines for law enforcement response to stalking." "guidelines shall stress law enforcement to criminal laws in stalking situations, availability of civil remedies and community resources, and protection of the victim," CH-135 CH150, remedies for stalking/threats/harassment approved by the Judicial Council of California rule: "The police cannot arrest anyone for violating an order unless the person knows about the order." "Someone must 'serve' (give) the person to be restrained a copy of the order".

Pagtakhan v. Foulk must rule a finding of actual innocence due to police and alleged victims misconduct.

(25) 49

1 (attachment insert) Prejudices Suffered

2
3 Resulting from the misconduct of
4 the detective, the District Attorney,
5 court appointed counsel and doctor-
6 s, and the Court violating both Stat-
7 e and Federal statutes, whether ne-
8 gligent or intentional, I, Marlon Est-
9 acio Pagtakhan have suffered the
10 following prejudices:

11
12 • Anxiety suffered in myself and family.
13 Anxiety comes natural to one who is fac-
14 ing criminal charges, and more so to one
15 who has been framed up and slandered a-
16 s myself. My family who were dependa-
17 nt on me financially, are now burdene-
18 d atop being witness to this injustice.

19
20 • Being subject to public obloquy whic-
21 h has endangered my person. In jail
22 do I suffer from public obloquy. Inm-
23 ates have spoken of and inquired me
24 regarding my case and those articles
25 published in papers, particularly the
26 Daily Journal. Misconstrued and fals-
27 e information was matter of factly disc-
28 losed. I've been shown the article pu-

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(27) (51)

1 e or compensate for incompetency o-
2 f court appointed counsel. (I am oppres-
3 sed from examining the police report, com-
4 plaint, doctors reports and alleged text
5 /email messages. I am oppressed from
6 questioning the detective and alleged
7 victims and witnesses. I am oppresse-
8 d from gathering physical and testamon-
9 ial evidence of alleged female victims
10 soliciting themselves sexually, i.e. sexu-
11 ally provocative material solicited from
12 one's myspace profile and an x-rated
13 scene of the other or someone identic-
14 al to her embedded/linked to one mem-
15 ber's user profile on her website, at a
16 point in time. I am oppressed from gathe-
17 ring testimonial evidence on my own b-
18 ehalf regarding my victimization of th-
19 e crimes suffered.)

20 • Curtailing my associations and tho-
21 se with witnesses through slander and
22 the passage of time. (The alleged victi-
23 ms are affiliates of an organization with
24 elements of a criminal mob, and will ha-
25 ve secured alibis for their conspiracy
26 and abuse/harassment of myself. Le-
27 aders of APW are given time to bribe
28 or command potential defense witness-

(28) (52)

ses, which is evident practice among the organization. Bribes may come in the form of APW parties catered with drugs and alcohol, Warrior basketball games with Roland, groupies/concubines hired by Roland and/or Kafu, and favoritism or participation in APW shows. SEE PAGE #29(b) OF THE ATTACHMENT. Roland Alexander spoke ill of me when I dropped out and my associations to those who may have testified for me have been presently lost. Others who dropped out of APW for other reasons of conflict have been lost, i.e. Doug and Deyantee.) STUDENTS ARE REWARDED FOR COMPLYING AND PUNISHED FOR DISOBEDIANCE.

• Exonerating evidence has been lost and destroyed, others may not be retrievable. These include yahoo messenger chat logs between MsChif and myself from April '06 through July '06, emails between us, both as online friends, a public post from Roland made on the APW message board charging me an extra \$4,000 because I like her, another one proclaiming he and Kafu hired a

(24) (53)
couple Brazilian girls for Billy Blade to
hook up with on his birthday, evidence
of Roland's blackmailing and later ha-
rassing and bombardment of text me-
ssages, evidence of Kafu's taunting
and mocking text messages, eviden-
ce of Gabriel Ramirez's bombardmen-
t of text messages **destroying exonem-
ting evidence** saved as I had to erase
my phones memory for it to work, hara-
ssing phone call logs from the above
and other affiliates to the lateness o-
f the night, evidence of Melissa **solic-
iting herself** online as previously ment-
ioned, and others not in mind atop my ti-
cket stubs to the Metro, Museum, Aq-
uarium, Sears Tower when I went to
see MsChif in Chicago but shyed out
from meeting her "as friends," beside-
s the mysteriously missing complaint ca-
rd I was given when I reported Roland's
harassment and blackmail in January '07.
(Please ^{read} attached news article regarding
"text messages" by Jeff Karoub from
the SF Chronicle)

• **Drained financial resources and disrupt-
ed employment.** Resulting from the

(38) (54)

misconduct I've addressed, my financial resources have been drained and my family once dependent on me are now burdened. Please see attached **Claim Against The County**. Had my bail not been excessively raised and I'd been granted an O.R. release, not fraudulently committed, I would not have a disruption in employment and would have been able to hire a competent attorney, working for me, not the District Attorney. (see attached business plan)

• Deprived my fundamental interest in liberty and Human Rights Art. 1, Art. 2, Art. 3, Art. 4, Art. 5, Art. 6, Art. 7, Art. 8, Art. 9, Art. 10, Art. 11(1), Art. 11(2), Art. 12, Art. 13(1), Art. 13(2), Art. 15(1), Art. 15(2), Art. 16(1), Art. 17(1), Art. 17(2), Art. 18, Art. 19, Art. 20(2), Art. 23(1), Art. 25, Art. 26(1), Art. 27(2), and Art. 30. On 8/11/07 did I choose to confront those who chose to oppress me and had been framing me all along as my rights to liberty had been violated, I had the right to confront my accusers. **For that was I arrested.** My State, Federal, and Human Rights stated were violated prior and have continued after my arrest.

(55)
(attachment insert) Prayer For Relief

Concluding further investigation or hearing on the grounds raised that should be addressed in person which are true and in evident violation of both State and Federal statutes, I, Marlon Estacio Pagtakhan pray that this higher court grant relief in a writ of habeas corpus quashing or dismissing the felony complaint case number NF369118A and quashing competency proceedings case number MH463328A (or to compel the said court to drop charges to a single count of PC§412 and to release me on my own recognizance as I defend myself pre-per, as it was the only probable crime committed on 8/11/07 hence I was never issued a restraining order nor were the guidelines under PC13519.05. duly followed by the Burlingame Police Department). I also ask that relief be granted compelling the District Attorney and/or Superior Court to release all of my illegally seized property in the interest of justice.

(56)

8. Did you appeal from the conviction, sentence, or commitment?

☐ Yes☒ No

If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

n/a

b. Result

n/a

c. Date of decision:

n/a

d. Case number or citation of opinion, if known:

n/a

e. Issues raised: (1)

n/a

(2)

n/a

(3)

n/a

f. Were you represented by counsel on appeal?

☐ Yes☐ No

If yes, state the attorney's name and address, if known.

n/a

9. Did you seek review in the California Supreme Court?

☐ Yes☐ No

If yes, give the following information:

a. Result

n/a

b. Date of decision:

n/a

c. Case number or citation of opinion, if known:

n/a

d. Issues raised: (1)

n/a

(2)

n/a

(3)

n/a

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

My court appointed attorney *is matter of factly* working in the interests of the prosecution.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

I am challenging an illegal arrest, issues contributing to a fraudulent commitment, all of which are in gross violation of stated State and Federal Amendments overall resulting in false imprisonment.

b. Did you seek the highest level of administrative review available?

☐ Yes☐ No

Attach documents that show you have exhausted your administrative remedies.

(56)

(57)

- 12 Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☒ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

MC-275

- 13 a (1) Name of court: U.S. District Court, Northern District
 (2) Nature of proceeding (for example, "habeas corpus petition"): habeas corpus petition
 (3) Issues raised: (a) multiple due process and speedy trial violations
 (b) fraudulent competency proceedings (must exhaust)
 (4) Result (Attach order or explain why unavailable): dismissed without prejudice
 (5) Date of decision: December 20, 2007
- b (1) Name of court: Superior Court, County of San Mateo
 (2) Nature of proceeding: habeas corpus petition
 (3) Issues raised: (a) 12 of 16 grounds erroneously unaddressed
 (b) must show prejudice for relief
 (4) Result (Attach order or explain why unavailable): summary denial
 (5) Date of decision: 1/18/08, sealed 1/24/08, received 1/27/08

✓ c. For additional prior petitions, applications, or motions, provide the same information on a separate page.
 (next page)

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

no hearings held

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

I've been prejudiced by the oppressive nature of incarceration. (i.e. law material access, mail delay, refusal of document disclosure)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

This is a pro-per petition including "Application For Appointment of Counsel".

17. Do you have any petition, appeal, or other matter pending in any court? ☒ Yes ☐ No. If yes, explain

Civil Rights Lawsuit under 42 U.S.C. §1983 (attached) I'm also preparing a BICO civil claim against APW.

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

Unreasonably denied in Superior Court. (order attached) as well as the Court of Appeals denying w/o an explanation. (order and letter attached).

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date

May 29, 2008 (11:30pm)

Marken E. Pagtakhan

(SIGNATURE OF PETITIONER)

(57)

(continued to another page)

(58)

(continued) Last Page of Habeas Petition

13. c. (1) Court of Appeal, First District
 (2) habeas corpus petition
 (3) none apparently addressed
 (4) "The petition for writ of habeas corpus is denied."
 (5) April 15, 2008

Addendum to above:

I immediately wrote to Diana Herbert, the Court of Appeal Clerk inquiring of any reason for the denial. I also asked for the process of appealing to the Supreme Court. She (actually signed Mary P. Guilez) claimed prohibition from providing an explanation of the court's order. She advised addressing my questions to the Supreme Court. I've sent a letter inquiring of procedures but have yet longed to receive a reply. I pray I've met the standard with this filing by including a fee waiver application, an application for counsel, and have added federal case citations. I feel relate to the legal theories I wish to argue. I'd have re-written this had I a typewriter.